

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

CENTRIPETAL NETWORKS, INC.,)
)
Plaintiff,)
v.) Case No.: No. 2:18-cv -00094-EWH-LRL
)
CISCO SYSTEMS, INC.,)
)
Defendant.)
)
)

**CENTRIPETAL NETWORKS, INC.’S RESPONSE TO CISCO NETWORKS, INC’S
NOTICE REGARDING THE ‘856 PATENT IPR**

Plaintiff Centripetal Networks, Inc. (“Centripetal”) respectfully submits this response to Cisco Networks, Inc.’s (“Cisco”) Notice of a Patent and Appeal Board (“PTAB”) decision (“Notice”) dated January 4, 2023 (the “Decision”) in connection with its Motion for a Partial Stay of the Case as to U.S. Patent No. 9,917,856 Pending Resolution of *Inter Partes* Review Proceeding (the “Motion”) to provide a more complete notice of the facts related to the Motion.

Cisco’s Notice omits a key development in relation to the ‘856 Patent. For completeness and fairness, Centripetal notifies the Court that one of the PTAB judges empaneled on the Decision—Judge Brian J. McNamara—owns Cisco stock, and receives profits from a lobbying firm that represents (and receives fees) from Cisco. Based on this information, Centripetal filed a motion for Judge McNamara’s and the other two panelists’ recusal, and a vacatur of the ‘856 Patent institution decision. Judge McNamara eventually recused himself, but failed to withdraw from the panel until the day *after* he adjudicated the Decision granting Cisco’s motion to join the ‘856 Patent IPR. *See* Dkt No. 671-1. Centripetal’s motion to recuse Judge McNamara and his withdrawal are attached hereto as Exhibits A and B, respectively. On January 18, 2023, a second PTAB judge—

Judge Steven M. Amundson—also withdrew from the panel that instituted the ‘856 Patent IPR. Accordingly, two of the three PTAB judges that decided to institute the ‘856 Patent IPR and permitted Cisco to join the IPR proceeding have withdrawn from the panel, and Centripetal’s motion seeking recusal of the entire panel and vacatur of the decision instituting review is still pending.

Additionally, contrary to Cisco’s argument, the Decision does not “resolve” any argument Centripetal made in opposition to the Motion, nor “provide further support” for the Motion. The Decision—which, as Cisco notes, “reiterates” PTAB’s prior decision instituting review—does nothing to alter the balance of any factor relevant to the Court’s decision, each of which heavily weigh against a stay. Dkt. No. 666 at 6-13. If anything, the recent developments at PTAB highlight the *years-long* stay Cisco seeks; should the IPR not be vacated now, it will still be subject to multi-year appellate proceedings.

Respectfully submitted,

Dated: January 23, 2023

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**ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of electronic filing to counsel of record.

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